

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

United States Courts
Southern District of Texas
FILED

LOUIS HAYES

Plaintiff,

v.

**PERCY MILLER a/k/a "MASTER P,"
MASTER P MUSIC, LLC, GUTTAR MUSIC,
INC., KOCH ENTERTAINMENT LP, KOCH
ENTERTAINMENT GP LLC, and KOCH
ENTERTAINMENT DISTRIBUTION, LLC
*Defendants.***

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JUL 31 2006

CIV. NO. **G-06-515**
Michael N. Milby, Clerk of Court

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Louis Hayes ("Hayes") brings this action against Defendants Percy Miller a/k/a "Master P," Master P Music, L.L.C., Guttar Music, Inc., Koch Entertainment LP, Koch Entertainment GP, LLC, Koch Entertainment Distribution, LLC ("Koch"), and The New No Limit Records ("New No Limit") and respectfully shows this Court the following:

**I.
JURISDICTION AND VENUE**

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States (17 U.S.C. §101 et seq.).
2. This Court has jurisdiction of this action under 28 U.S.C. §1338(a) and 28 U.S.C. §1331.
3. Venue is proper in this District under 28 U.S.C. §1400(a) in that Defendant Miller resides in this District and/or may be found in this District.
4. Venue is also proper in this District under 28 U.S.C. §1391(b) in that substantial acts of copyright infringement giving rise to Plaintiff's claims in this case occurred in this District.
5. Venue is also proper in this District under 28 U.S.C. §1391(c) in that all Defendants have

substantial business contacts with this District.

II. PARTIES

6. Plaintiff Hayes is an individual who is a citizen of the State of Texas.

7. Defendant Percy Miller is an individual who is a citizen of the State of Texas, and may be served with process at 2422 Linwood Drive, Missouri City, Texas 77459; 3211 Broken Bough Drive, Missouri City, Texas 77459; or 3207 Broken Bough Drive, Missouri City, Texas 77459.

8. Defendant Koch Entertainment LP is a Delaware limited, with its principal place of business in the State of New York; Defendant Koch Entertainment GP LLC is a Delaware limited liability company headquartered in New York; and, Defendant Koch Entertainment Distribution LLC is a Delaware limited liability company, headquartered in New York (collectively "Koch Defendants"). The Koch Defendants do not have a registered agent for service of process in the State of Texas. Service of process on these defendants thus may be made according to the laws of the State of Texas by serving the Texas Secretary of State, who should forward summons and a copy of this Complaint to the Koch Defendants' address: Michael I. Koch, 22 Harbor Park Drive, Port Washington, New York 11050.

9. Defendant Master P Music, LLC is a Louisiana limited liability company, headquartered in Louisiana; This Defendant can be served via the Secretary of State at its headquarters: Roy H. Maughan, Jr., 634 Connell's Park Lane, Baton Rouge, Louisiana 70806. Defendant Guttar Music, Inc. is a California company headquartered in California. This Defendant can be served via the Secretary of State at its headquarters: 11718 Barrington Court, Suite 735, Los Angeles, California 90049.

III.
FACTS

10. In early 2000, Hayes formed a rap group called the “Top Rank Boyz,” consisting of Hayes, Shannon Hayes, Gayvin Goff, Daniel Patterson, and Yusulf Benson (“Benson”). These individuals wrote the music and lyrics to the musical work “Where You From,” which they recorded and released later that year on their compact disk (“CD”), “U Already Know.”

11. On or about September 26, 2000, Hayes was issued a Certificate of Registration from the United States Copyright Office for the musical work “Where You From” (Attached hereto as Exhibit “1”).

12. Hayes provided members of the Top Rank Boyz, including Benson, with copies of the “U Already Know” CD so the members could go out and promote the CD.

13. Percy Miller a/k/a “Master P” is a rap artist that owns or controls Defendants Master P Music, LLC and Guttar Music, Inc. In late 2000, Benson met Defendant Miller at a restaurant in Houston, Texas. Benson and Miller struck up conversation, during which Benson advised Miller that he too was a rap artist. Because Miller was a well known rap music producer, Benson asked Miller if he would listen to his music.

14. Benson then joined Miller in Miller’s black Ford Excursion where they listened to Benson’s single, “You Belong To Me.” In order to promote the Top Rank Boyz’ CD, Benson then gave Miller a copy of the “U Already Know” CD, which Miller said he would listen to it in full. Again, the song “Where You From” was on the “U Already Know” CD.

15. All Defendants are involved in the recording, manufacturing, distributing, licensing, and

marketing of recorded music. The Koch Defendants are specifically involved in the distributing of recorded music, and have worked with Master P to distribute his music for several years.

16. On or about February 22, 2005, without any right, Defendants produced, manufactured, marketed, distributed, licensed, and sold an identical or substantially similar recorded version of Plaintiff's "Where You From", which was owned and copyrighted by Hayes. Without Hayes' knowledge or authority, this music recording was released on CD and cassette, distributed for public sale, and played on radio stations. Specifically, the Koch Defendants distributed the song, which is protected by Plaintiff's copyright.

17. When Hayes heard Defendant Miller's version of "Where You From," which Miller titled "Where U From" and which had a substantially similar musical "hook" and lyrics, he knew that his copyright had been infringed. He thus brings this action.

IV. COPYRIGHT INFRINGEMENT

18. Prior to Defendants' release of their version of "Where You From," Hayes along with Shannon Hayes, Gayvin Goff, and Daniel Patterson created and authored the music and lyrics contained in the musical work entitled "Where You From," from which a sound recording was produced and distributed in CD form to various persons, including Miller and the entities that he owns and controls.

19. Hayes' sound recording is comprised of material wholly original which was composed by him and is copyrightable subject matter under the laws of the United States.

20. At all times, Hayes duly complied with all of the laws applicable to his sound recording as a copyrighted work, and on September 26, 2000, Hayes duly registered a claim thereto in the United

States Copyright Office, evidenced by a Certificate of Registration issued by the Register of Copyrights, dated and identified as follows: September 26, 2000, PA 1-267-392 (Exhibit 1).

21. At all times pertinent hereto, Hayes has duly complied with all provisions of the Copyright Laws of the United States applicable to his sound recording.

22. Since September 26, 2000, Hayes has been and still is the proprietor of the statutory copyright in his sound recording, and is duly possessed of all rights, title, and interests therein.

23. In late 2000, Benson provided Miller with sound recordings which included "Where You From." By this time, Hayes had already completed the process of registering his music and lyrics from "Where You From" with the United States Copyright Office.

24. Subsequently, on or about February 22, 2005, Defendants infringed the statutory copyright of Hayes by recording and selling a song entitled "Where U From" which was substantially similar to Hayes' copyrighted song, "Where You From."

25. Title 17 U.S.C. §501 provides that "[a]nyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 122 . . . is an infringer of the copyright."

26. Defendants never received authorization from Hayes to use his sound recording titled "Where You From" in the recording and production of "Where U From" in violation of 17 U.S.C. §106.

27. Defendants jointly and severally infringed the statutory copyright of Hayes' sound recording by substantially copying this recording; publicly performing this recording; making and distributing, or authorizing the making and distributing of a phonorecord containing this recording; and participating in or furthering such infringing acts.

28. The respective infringing acts of Defendants include, but are not limited to, the following:

- (a) Participating in and contributing to the copying of Hayes' sound recording in the

creation of the song entitled "Where U From";

(b) Participating in, contributing to, and profiting from the making and distributing of phonorecords in the United States, serving to reproduce mechanically the recording of "Where U From"; and

(c) Profiting from the public performance of Hayes' sound recording utilized in the production of "Where U From."

29. Defendants' respective infringing acts were, and if continued, hereafter will be, committed willfully.

30. Defendants' respective infringing acts have caused and are causing great injury to Hayes, which damage cannot be accurately computed; and unless this Court restrains Defendants from the further commission of these acts, Hayes will suffer irreparable injury, for which Hayes is without any adequate remedy at law.

V.
RELIEF REQUESTED

31. That Defendants, and each of them, and their respective agents, servants, representatives, and employees be permanently enjoined from infringing on Hayes' statutory copyright after a trial on the merits. This includes distributing copies of, and making and distributing phonorecords of the recording of "Where U From," and from licensing and contributing to or participating in any further infringing acts as provided by 17 U.S.C. §§502 and 503.

32. That Defendants, and each of them, be required to account for all gains, profits, and advantages derived by Defendants from each of their infringements of the statutory copyright, and pay to Hayes all monies shown to be due and owing to Hayes pursuant to such accounting.

33. That Defendants, and each of them, be required to pay statutory damages for each work as provided by 17 U.S.C. §504(c)(1)-(2).

34. That Defendants, and each of them, be required to pay to Hayes the costs of this action, including reasonable attorney's fees necessary to prosecute this action, as provided by 17 U.S.C. §505.

VI.
JURY DEMAND

35. Hayes hereby demands a trial by jury.

VII.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Hayes prays that Defendants be cited to appear and that he have judgment in equity and for damages against Defendants jointly and severally for all actual and punitive damages, prejudgment and post judgment interest, attorney's fees, and for such other and further relief as this Court deems appropriate.

Respectfully submitted,

THE BUZBEE LAW FIRM

By: 

Anthony G. Buzbee

S.D. ID#: 22679

State Bar No. 24001820

Attorney-in-charge

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www.txattorneys.com

ATTORNEY FOR PLAINTIFF

Of Counsel:

THE BUZBEE LAW FIRM

Christopher K. Johns

S.D. ID#: 21630

State Bar No. 24002353

002/003

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

117 8 15 550

PA 1-257-382

PA 1-257-382

9 26 2000

9 26 2000

1 "WHERE YOU FROM"

NOTE: THIS WORK IS NOT A COPYRIGHTABLE WORK

2 a LOUIS D. HAYES - aka - [redacted] USA

NOTE

THIS WORK IS NOT A COPYRIGHTABLE WORK

b GAYN E. HAYES - aka - [redacted] USA

c DANIEL B. HAYES - aka - [redacted] USA

3 a [redacted] b [redacted]

4 LOUIS D. HAYES - aka - [redacted] MISSOURI CITY, TX 77459

NOTE: THIS WORK IS NOT A COPYRIGHTABLE WORK

Page 1 of 2

PLAINTIFF'S
EXHIBIT 1

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

LOUIS HAYES

(b) County of Residence of First Listed Plaintiff Fort Bend
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Anthony G. Buzbee, The Buzbee Law Firm, 104 21st Street, Galveston, Texas 77550, 409-762-5393

DEFENDANTS

PERCY MILLER a/k/a "MASTER P", ET AL.

County of Residence of First Listed Defendant Fort Bend
(IN U.S. PLAINTIFF CASES)

NOTE: IN LAND CONDEMNATION CASES, THE
LAND INVOLVED.

Attorneys (If Known)

JUL 31 2006

Michael N. Milby, Clerk of Court

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

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|---|--|---|--|--|--|
| <input type="checkbox"/> 110 Insurance | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 362 Personal Injury - Med. Malpractice | <input type="checkbox"/> 610 Agriculture | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 400 State Reapportionment |
| <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 365 Personal Injury - Product Liability | <input type="checkbox"/> 620 Other Food & Drug | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input checked="" type="checkbox"/> 820 Copyrights | <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 330 Federal Employers' Liability | <input type="checkbox"/> 370 Other Fraud | <input type="checkbox"/> 630 Liquor Laws | <input type="checkbox"/> 830 Patent | <input type="checkbox"/> 450 Commerce |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 340 Marine | <input type="checkbox"/> 371 Truth in Lending | <input type="checkbox"/> 640 R.R. & Truck | <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 460 Deportation |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 380 Other Personal Property Damage | <input type="checkbox"/> 650 Airline Regs. | | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 660 Occupational Safety/Health | | <input type="checkbox"/> 480 Consumer Credit |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | | <input type="checkbox"/> 690 Other | | <input type="checkbox"/> 490 Cable/Sat TV |
| <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 360 Other Personal Injury | | | | <input type="checkbox"/> 810 Selective Service |
| <input type="checkbox"/> 190 Other Contract | | | <input type="checkbox"/> 710 Fair Labor Standards Act | <input type="checkbox"/> 861 HIA (1395ff) | <input type="checkbox"/> 850 Securities/Commodities/Exchange |
| <input type="checkbox"/> 195 Contract Product Liability | | | <input type="checkbox"/> 720 Labor/Mgmt. Relations | <input type="checkbox"/> 862 Black Lung (923) | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 |
| <input type="checkbox"/> 196 Franchise | | | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) | <input type="checkbox"/> 890 Other Statutory Actions |
| | | | <input type="checkbox"/> 740 Railway Labor Act | <input type="checkbox"/> 864 SSID Title XVI | <input type="checkbox"/> 891 Agricultural Acts |
| <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 510 Motions to Vacate Sentence | <input type="checkbox"/> 790 Other Labor Litigation | <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 892 Economic Stabilization Act |
| <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 530 General | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 893 Environmental Matters |
| <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 443 Housing/Accommodations | <input type="checkbox"/> 535 Death Penalty | | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 894 Energy Allocation Act |
| <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 444 Welfare | <input type="checkbox"/> 540 Mandamus & Other | | | <input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 245 Tort Product Liability | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | <input type="checkbox"/> 550 Civil Rights | | | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice |
| <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 446 Amer. w/Disabilities - Other | <input type="checkbox"/> 555 Prison Condition | | | <input type="checkbox"/> 950 Constitutionality of State Statutes |
| | <input type="checkbox"/> 440 Other Civil Rights | | | | |

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
17 U.S.C. § 101 et seq

Brief description of cause:
Copyright infringement.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____